

Guidelines Governing Modification of No Contact Orders (NCO) in Misdemeanor Domestic Violence Cases

1. General Rules

- a. A NCO shall remain in full force throughout the pendency of all DV cases unless modified by the judge under the following guidelines.

2. Factors for Consideration

- a. **Advocacy.** Victims who meet with a confidential, non-governmental advocate to discuss safety planning are in a favorable position.
- b. **Evidence of Offender Change.** Ask yourself the questions: What has changed since the date of the offense? Has the defendant enrolled in abuser treatment or drug/alcohol treatment? Has the defendant taken any steps to minimize the risk of future violence? Has the defendant made any commitment to change the behavior, which resulted in criminal charges? If applicable, is the defendant in compliance with any other conditions of bail including pretrial supervision?
- c. **Lethality Review.** Although there is no foolproof instrument that exists to predict which defendants will re-offend, lethality tests and risk assessment measures provide excellent guidance

1. Severity of Offense Alleged

Nature of violence/injury to victim

- ☐ Strangulation
- ☐ Burning
- ☐ Causing permanent physical damage
- ☐ Head injuries

Nature of threats

- ☐ Nature of threat of future injury or death
- ☐ Threat of use of weapon
- ☐ Threat of child abduction or denial of visitation rights
- ☐ Threats made openly and in presence of others

Child abuse

- ☐ Child injured during incident
- ☐ Children witness offense
- ☐ Violence or threats in the presence of children

☐ Evidence of escalating violence

- ___ Use of weapon
- ___ Sexual abuse
- ___ Animal abuse
- ___ Property damage
- ___ Threat of future property damage
- ___ Recency of conduct alleged
- ___ Stalking
- ___ Hostage taking
- ___ Victim is vulnerable due to age, disability or pregnancy

2. Severity of Other Conduct of Defendant

- ___ Prior criminal record
- ___ History of violence in prior relationships
- ___ Other pending charges
- ___ Previous DV charges dismissed
- ___ Previous DV contacts with DA
- ___ Previous DV contacts with police
- ___ Other evidence of violence or threats to victim or others

3. Proclivity of Defendant to Respect Court Rules

- ___ Record of violation of court orders
- ___ Record of failure to follow rules of probation
- ___ Previous treatment for domestic violence

4. Other Background Factors Concerning Defendant

- ___ Evidence of suicide threat
- ___ Evidence of depression
- ___ Evidence of paranoid thinking
- ___ History of mental health or emotional problems
- ___ Substance abuse
- ___ Availability of weapons

5. Stressors That Commonly Trigger Domestic Violence

- ___ Imminent break-up, separation or divorce initiated by victim
- ___ Imminent change in child custody
- ___ Imminent change in victim's residence
- ___ Imminent change in victim's employment

6. Other Factors to Consider

- ___ Victim's fear of defendant
- ___ Evidence of coerced conduct by victim
- ___ Children living with victim

- d. Power and Control.** A victim's request for modification of a No Contact Order may be occurring under threat or to avoid future physical harm, financial harm, or other suffering. Defendants must be held strictly accountable for their manipulation and intimidation of victims and the court system.

3. Modification Guidelines

- a. **Victim Presence in Court.** A later modification of the No Contact Order will only be considered when a victim is present in court and requests modification.
- b. **Amendments/Modifications in Writing.** All changes to existing No Contact Orders shall be made clear and in writing. Clear boundaries ensure more certainty and predictability for all parties. All parties shall receive a copy of any modifications/amendments to court orders.

4. Guiding Principles.

- a. **Victim Safety.** The number one consideration must always be the safety and protection of victims.
- b. **Individual Victim Autonomy.** It is recognized that the imposition of No Contact Orders occurs, at times, at the expense of individual victim autonomy.
- c. **No Perfect Solution.** There is not a “one size fits all” policy that will serve all victims.
- d. **The Criminal Justice System.** In the balance is the issue of the potential “harm” that the criminal justice system can wreak on the lives of the victims and community members it seeks to protect. Every victim deserves to be treated with respect and dignity, and a victim’s concerns and requests deserve to be heard.